

### **REMARKS**

Reconsideration of this application, as amended, is respectfully requested. The specification has been amended to insert the Sequence Listing. These amendments do not add any new matter and are supported by the application as originally filed. Applicants reserve the right to reincorporate any cancelled or otherwise presently unclaimed subject matter in this application as appropriate or to prosecute the same in subsequently filed applications. Consideration and entry of this amendment is respectfully requested.

### **Notice of Abandonment dated June 22, 2011**

Applicants respectfully maintain that the The Notice of Abandonment dated June 28, 2011 was issued in error and request its withdrawal. Applicants filed a response to the Notice to Comply dated May 25, 2011, including a new sequence listing, on June 20, 2011. However, errors were detected by the USPTO and a Notice of Abandonment issued on June 28, 2011. It is noted that these errors were not detected when the undersigned checked the sequence using the USPTO CHECKER software (version 4.6.6) before submitting the same. In fact, after processing the file, CHECKER displayed the message "There are no errors in your file". The sequence listing was then submitted to the USPTO. Thus, Applicants' attorney submitted what was thought to be a complete and correct sequence listing after checking the same using the CHECKER program as suggested by the USPTO. The fact that this situation may occur was confirmed by Ms. Anne-Marie Corrigan at the USPTO.

Understanding that this reasoning may not itself convince the USPTO to withdraw the Notice of Abandonment, Applicants also note that in fact the "period of time within which to comply" under 37 C.F.R. § 1.821(g) has not expired. The May 25, 2011 Notice included the following statements on page 2:

APPLICANT IS GIVEN ONE MONTH FROM THE DATE OF THIS LETTER WITHIN WHICH TO COMPLY WITH THE SEQUENCE RULES, 37 C.F.R. §§ 1.821-1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 C.F.R. § 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 C.F.R. §

1.136. In no case may an applicant extend the period for response beyond the six month statutory period. (Emphasis added.)

At page 3, the “Notice to Comply” further explained that “extensions of time may be obtained under the provisions of 37 CFR 1.136(a)”. It is noted that 37 C.F.R. § 1.821(g) reads, in part:

(g) If any of the requirements of paragraphs (b) through (f) of this section are not satisfied at the time of filing under 35 U.S.C. 111(a) or at the time of entering the national stage under 35 U.S.C. 371, applicant will be notified and given a period of time within which to comply with such requirements in order to prevent abandonment of the application.

Under 37 C.F.R. § 1.821(g), the “period of time within which to comply” to the May 25, 2011 Notice expires on November 25, 2011. As such, Applicants are in fact still within the “period of time within which to comply”. The June 28, 2011 Notice of Abandonment is therefore improper as Applicants’ “period of time within which to comply” under 37 C.F.R. § 1.821(g) has not yet expired. Accordingly, withdrawal of the Notice of Abandonment is respectfully requested. Given these facts, it is not believed that a Petition for Revival of an Application Abandoned Unintentionally Under 37 CFR 1.137(b) is required. Applicants have therefore submitted this response along with a request for a three-month extension of time and payment of the three-month extension fee.

#### **Sequence Listing**

A new Sequence Listing is attached hereto in both paper and computer-readable form. The undersigned representative hereby declares that the content of the paper and computer readable copies of the Sequence Listing submitted herewith are identical in content and do not contain new matter.

### **CONCLUSIONS**

Applicants believe the claims are in condition for allowance and respectfully request that a Notice of Allowance be issued as soon as possible. The Examiner is encouraged to contact the undersigned with any comments and / or questions.

Respectfully submitted,

Date: September 16, 2011

/Patrick J. Halloran/

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